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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,800	08/25/2003	Vittorio Castelli	YOR920030269US1/950-01139	2350

7590 11/28/2006

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EXAMINER	
WALLING, MEAGAN S	

ART UNIT	PAPER NUMBER
2863	

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/647,800	CASTELLI ET AL.	
	Examiner	Art Unit	
	Meagan S. Walling	2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *9/11/06*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,4,8,11,12,15-17 and 20* is/are rejected.

7)☒ Claim(s) *2,3,5-7,9,10,13,14,18 and 19* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *8/25/03* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 1, 4, 8, 11, 12, 15-17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sipple et al. (US 6,405,327) in view of Quarterman et al. (US 2002/0177910).

Regarding claim 1, Sipple et al. teaches monitoring with successive measurements a utilization parameter of a system resource (column 3, lines 38-40); comparing the utilization parameter to a threshold change parameter (column 3, lines 20-25); and reporting a resource bottleneck if the utilization parameter exceeds the threshold change parameter (column 3, lines 43-44).

Regarding claim 4, Sipple et al. teaches delaying reporting the resource bottleneck until the change parameter exceeds the threshold change parameter on at least one successive measurements (column 9, lines 42-48).

Regarding claim 8, Sipple et al. teaches a computer useable medium having computer readable code (column 1, line 8) means embodied thereon for causing a computer to execute a method for detecting and forecasting resource bottlenecks of a computer system, the computer readable code means in the computer program product including: computer readable program code means for causing a computer to monitor with successive measurements a utilization

parameter of a system resource (column 3, lines 38-41); computer readable program code means for causing a computer to compare the change parameter to a threshold utilization parameter (column 3, lines 20-25); and computer readable program code means for causing a computer to report a resource bottleneck if the utilization parameter exceeds the threshold change parameter (column 3, lines 43-44).

Regarding claim 11, Sipple et al. teaches that the resource bottleneck is not reported until the change parameter exceeds the threshold change parameter on at least one successive measurement (column 9, lines 42-48).

Regarding claim 12, Sipple et al. teaches that the utilization parameter is the average utilization of the system resource for a time period (column 8, lines 56-60).

Regarding claim 15, Sipple et al. teaches a processor (16); and a program code (column 1, line 8) executed on the processor for detecting and forecasting resource bottlenecks, the program code including code for: monitoring with successive measurements a utilization parameter of a system resource (column 3, lines 38-41; comparing the utilization parameter to a threshold change parameter (column 3, lines 20-25); and predicting a resource bottleneck if the utilization parameter exceeds the threshold change parameter (column 3, lines 43-44).

Regarding claim 16, Sipple et al. teaches code for determining a corrective action to avoid the resource bottleneck (column 11, lines 61-63).

Regarding claim 17, Sipple et al. teaches that the data processing system is a server within a LAN network and the utilization parameter is a percentage of CPU utilization (column 2, line 2 and column 3, line 21).

Regarding claim 20, Sipple et al. teaches code for reporting the resource bottleneck if the change parameter exceeds the threshold change parameter on at least one successive measurement (column 9, lines 42-48).

Sipple et al. does not teach computing a change parameter and comparing the change parameter to a threshold (current claims 1, 8, and 15).

Regarding claims 1, 8, and 15, Quarterman et al. teaches determining an event by comparing the difference between consecutive measurements to a threshold (paragraph 165).

It would have been obvious to one skilled in the art at the time of the invention to combine the teachings of Sipple et al. with the teachings of Quarterman et al. to compare a change parameter to a threshold. The motivation for making this combination would be to detect a sudden change in performance.

Allowable Subject Matter

2. Claims 2, 3, 5-7, 9, 10, 13, 14, 18, and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Please see previous office action for reasons for allowance.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meagan S. Walling whose telephone number is (571) 272-2283. The examiner can normally be reached on Monday through Friday 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

msw

John Barlow
Supervisory Patent Examiner
Technology Center 2800